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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,556	10/17/2001	Arnold G. Slezak	P1535US01	6786

7590  
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02/24/2010

EXAMINER
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TUGBANG, ANTHONY D

ART UNIT	PAPER NUMBER
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3729

MAIL DATE	DELIVERY MODE
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02/24/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/981,556	<b>Applicant(s)</b> SLEZAK, ARNOLD G.	
	<b>Examiner</b> A. Dexter Tugbang	<b>Art Unit</b> 3729	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 5-33 is/are pending in the application.
- 4a) Of the above claim(s) 10-20 and 25-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-9,21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

The applicant(s) amendment (filed on November 2, 2009) has been fully considered and made of record.

**NOTE:** The examiner suggests that in any subsequent amendment that is filed, a complete listing of **ALL** of the claims should be recited, including status identifiers, e.g. withdrawn, currently amended, etc. Otherwise the amendment will be marked as non-compliant (37 CFR 1.121).

### ***Election/Restrictions***

**Claims 10 through 20 and 25 through 33 continue to stand as being withdrawn from further consideration pursuant to 37 CFR 1.142(b)**, as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the replies filed on May 31, 2005 and June 18, 2004.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claims 1, 3, 5 through 9, and 21 through 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.** The claim(s) contains subject matter which was not described in the specification in such a

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way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In Claim 1, the recitation of "the prewritten discs placed around the motor hub with respect to each other so that the alignment axes amount the plurality of prewritten discs are angularly disposed symmetrically around the motor hub" (lines 6-9) is new matter. The specification and drawings, as originally filed, provide no written description of any alignment axes of the prewritten discs being angularly disposed *symmetrically* around the motor hub. The specification, as originally filed, does not even use the terms of "angularly disposed" or "symmetrically".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1, 3, 5 through 9 and 21 through 24, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

In Claim 1, it is unclear from the disclosure what is meant by the phrase of "a direction of an alignment axis...symmetrically around the motor hub" (lines 3-9).

A person having ordinary skill in the art would not understand what is claimed when the claims are read in light of the specification. The claims recite the prewritten discs have servo tracks that are "are offset in a direction of an alignment axis that is in the same angular direction for all of the plurality of prewritten discs" and the discs are placed "so that the alignment axes among the plurality of prewritten discs are angularly disposed symmetrically around" the motor hub.

The specification describes a process of locating an alignment mark on a prewritten disc and rotating and aligning the prewritten disc with a biasing force in a direction toward the center of the disc. The specification does not describe the applicant(s) invention in terms of an "alignment axis that is in the same angular direction for all of the plurality of prewritten discs" and "discs are placed so that the alignment axes among the plurality of prewritten discs are angularly disposed symmetrically around the motor hub". A person of ordinary skill in the art would not understand what *alignment axis* is being referred to. For example, angular directions for the discs can occur into and out of the page (of Figure 2). Therefore, it would be impossible to determine an alignment axis that would be the very same angular direction for all of the discs in a plane into and out of the page (of Figure 2). Accordingly, the claims terms are not sufficiently described in the specification and the meaning of the claims is undeterminable, subject to plural interpretations, and therefore indefinite.

**NOTE:** No art rejections have been applied to the claims since there are a great deal of confusion and uncertainty as to the proper interpretation of the limitations of claims. Therefore, it would not be proper to reject such claims on the basis of prior art. See MPEP 2173.06.

### ***Conclusion***

The applicant(s) amendment (**filed on November 2, 2009**) has necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Dexter Tugbang whose telephone number is 571-272-4570. The examiner can normally be reached on Monday - Friday 8:15 am - 4:45 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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**/A. Dexter Tugbang/  
Primary Examiner  
Art Unit 3729**

February 19, 2010